



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

May 23, 1996

The Honorable Pete P. Gallego
Chair
General Investigating Committee
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

Letter Opinion No. 96-055

Re: Whether the holder of a special parking permit for the disabled is entitled to free parking in airport parking lots and garages (ID# 36957)

Dear Representative Gallego:

Generally, Transportation Code section 681.006(b) exempts the owner of a vehicle with a special parking permit for the disabled from paying a parking fee that a governmental unit has imposed. Where a county or municipality owns an airport and appurtenant parking facility, you ask whether a vehicle owner with a special parking permit for the disabled is exempt from parking fees in the airport parking facility. The language of section 681.006(b) compels us to conclude that a local government that imposes a fee for parking in an airport facility may not charge a parking fee to a vehicle owner with a special parking permit for the disabled.

We begin by examining those Transportation Code provisions that concern special parking privileges for motor vehicles operated by or for a disabled individual. To qualify for these special parking privileges, a vehicle must display one of two forms of identification. First, the vehicle owner may display a specially designed license plate, which the Department of Transportation may issue under Transportation Code section 502.253(a). Second, the vehicle owner or operator may place on the rearview mirror of the vehicle's front windshield a special placard, which the Department of Transportation may issue under sections 681.002 through 681.004 of the Transportation Code. Under section 681.006(b), proper display of either of these two forms of identification exempts the owner of the vehicle from paying a fee that a governmental unit has imposed for parking in a garage or lot, but only if a disabled individual is operating the vehicle or another person is operating the vehicle to transport a disabled individual.¹ We will assume, for purposes

¹Transp. Code § 681.006(b). Prior to its 1995 codification, the substance of Transportation Code section 681.006(b) was located in V.T.C.S. article 6675a-5e.1, section 6(b). Cf. V.T.C.S. art. 6675a-5e.1, § 6(b), *repealed by* Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 24(a), 1995 Tex. Sess. Law Serv. 1025, 1870-71. Subsequent to the codification and repeal of article 6675a-5e.1, section 6(b), the Seventy-fourth Legislature amended the section by adding the phrase "parking garage or lot" to the list of parking meters and parking spaces in which the owner of a vehicle with properly displayed disabled identification may park without charge or restriction. See Act of May 27, 1995, 74th Leg., R.S., ch. 929, § 2, 1995 Tex. Sess. Law Serv. 4654, 4655. Because we must effectuate, as part of the code provision, an amendment of a statute by the same legislature that codifies the statute, see Gov't Code § 311.031(c), we will refer to section 681.006(b) as though it incorporates the 1995 amendment.

of this opinion, that you ask only about a vehicle that a disabled individual is driving or that is transporting a disabled individual.

Section 681.006(b) of the Transportation Code thus applies to any fee that a governmental unit imposes for parking in a garage or lot. Notably, the section does not expressly exclude fees for parking in an airport garage or lot.² But the section does not define the term “governmental unit,” and we are aware of no other Transportation Code provision that defines the term. Nevertheless, we believe we may define the term consistently with section 101.001(2) of the Civil Practices and Remedies Code, at least to the extent that section 101.001(2) defines “governmental unit” to comprise “a political subdivision of this state, including” a municipality or county.

We next must determine whether a political subdivision of the state, such as a municipality or county, imposes parking fees at an airport parking facility. Ultimately, that issue is a fact question, the resolution of which is inappropriate to the opinion process.³ In our opinion, however, Transportation Code chapter 22 authorizes a municipality or county—each of which is a political subdivision and therefore a governmental unit—to impose parking fees itself or through a third party that has contracted to operate the airport on behalf of the municipality or county.

Section 22.002(a) of the Transportation Code declares that planning, acquiring, establishing, and operating an airport are public, governmental functions. Furthermore, a county that performs one of these functions fulfills a county function and purpose.⁴ Likewise, a municipality that performs one of these functions fulfills a municipal function and purpose.⁵ Additionally, a county or municipality may construct and operate a facility appurtenant to an airport to accommodate air travelers, such as a facility that an airport

²In a letter to this office, the representative who authored a 1995 bill that was ultimately amended to include the phrase “parking garage or lot” to section 681.006(b) suggests that the amendment applies only to parking facilities at governmental buildings where meetings and hearings are held or where state government services are provided. See Letter from Representative Garnet F. Coleman to The Honorable Dan Morales (Oct. 17, 1995). Where the language of a statute is clear, as we believe section 681.006(b) is, a court need not rely on extrinsic materials to determine the legislature’s intent. See *Lumbermen’s Underwriters v. State Bd. of Ins.*, 502 S.W.2d 217, 219 (Tex. Civ. App.—Austin 1973, writ ref’d n.r.e.). Furthermore, a legislator’s post-enactment interpretation of a statutory amendment is not entitled to probative weight in determining legislative intent. *State of Texas v. United States*, 951 F.2d 645, 650 (5th Cir. 1992) (citing *Bread Political Action Comm. v. Federal Election Comm.*, 455 U.S. 577 (1982), and *Blanchette v. Connecticut Gen. Ins. Corp.*, 419 U.S. 102 (1974), *rev’d on other grounds*, 507 U.S. 529 (1993)), *Rogers v. Frito-Lay, Inc.*, 611 F.2d 1074, 1080 (5th Cir.), *cert. denied*, 449 U.S. 886 (1980).

³See, e.g., Attorney General Opinions DM-98 (1992) at 3, H-56 (1973) at 3, M-187 (1968) at 3, O-2911 (1940) at 2.

⁴Transp. Code § 22.002(b).

⁵*Id.*

commonly provides.⁶ A county or municipality also may contract with a third party to perform any function chapter 22 authorizes a local government to perform.⁷

In our opinion, the broad authority Transportation Code chapter 22 grants to a county or municipality that owns an airport includes the authority to construct and operate a parking garage or lot to accommodate air travelers. Certainly, one may classify a parking garage or lot as a facility that an airport commonly provides. Accordingly, parking fees that are charged at an airport parking facility that a county or municipality owns and operates are imposed by the governmental unit, and a vehicle owner who displays a special parking permit for the disabled is exempt from paying the fee.

Even if, in accordance with Transportation Code section 22.019, a third party, with whom the local government has contracted, operates the county- or municipal-airport parking facility, we believe that a vehicle owner displaying a special parking permit for the disabled is exempt from paying fees for parking in an airport facility. Looking solely at the language of section 681.006(b) of the Transportation Code, we are uncertain whether, where a third party operates the county- or municipal-airport parking facility, the third party or the local government imposes the parking fee.⁸ But the legislative history of the 1995 amendment to section 681.006(b) makes clear that, by adding the phrase "in a parking garage or lot," the Seventy-fourth Legislature intended to provide free parking for the disabled at public parking facilities generally.⁹ Nothing in the legislative history indicates that the legislature intended to exclude government parking facilities operated by a third party. We therefore interpret the phrase "imposed by a governmental unit" in section 681.006(b) to include parking fees collected by a third party that operates a governmentally owned parking facility under a contract with the governmental unit.

We note that chapter 22 of the Transportation Code authorizes a municipality or county to agree with another municipality or county, a state or federal agency, or a political subdivision or agency of another state, to jointly operate an airport through a joint board.¹⁰ The joint board consists of members appointed by the governing authority of each participating public agency.¹¹ Because the joint board carries out public, government-

⁶*Id.* § 22.011(b)(1)(D).

⁷*Id.* § 22.019.

⁸See WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY 605 (1990) (defining "impose").

⁹See Debate on H.B. 2083 on the Floor of the House, 74th Leg., R.S. (May 11, 1995) (testimony of Representative Coleman) (tape available from House Video/Audio Services Office); see also H.J. of Tex., 74th Leg., at 2477 (1995).

¹⁰See Transp. Code §§ 22.071(5), .072, .074(c), .080.

¹¹*Id.* § 22.074(1).

tal functions,¹² and because the board is composed of representatives of each governmental unit involved, we believe the joint board is a governmental unit subject to section 681.006(b) of the Transportation Code. Consequently, if the joint board owns and operates an airport parking facility, or contracts with a third party to operate an airport parking facility, we believe the joint board imposes any parking fee that is charged. Under section 681.006(b) of the Transportation Code, then, a vehicle owner who displays the special parking permit for the disabled is exempt from that parking fee.

Finally, section 681.006(b) exempts only the owner of a vehicle on which the special parking permit for the disabled is displayed. Furthermore, the owner is exempt only if an individual with a disability is operating the vehicle or another individual is operating the vehicle for a disabled individual. We do not address in this opinion how a governmental unit, or the third party that operates a parking facility through a contract with the governmental unit, may determine, at the time the fee is charged, whether the owner is in the vehicle or whether the vehicle is being operated by or for a disabled individual.

¹²See *id.* § 22.002(a).

S U M M A R Y

Under Transportation Code section 681.006(b), a vehicle owner who displays a special parking permit for the disabled is exempt from paying a parking fee at an airport parking facility that a county, municipality, or joint board owns and operates, but only if a disabled individual is operating the vehicle or another person is operating the vehicle to transport a disabled individual. Additionally, a vehicle owner who displays a special parking permit for the disabled is exempt from paying a parking fee at an airport parking facility that a county, municipality, or joint board owns but that a third party operates under a contract with the governmental unit, but only if a disabled individual is operating the vehicle or another person is operating the vehicle to transport a disabled individual.

Yours very truly,

A handwritten signature in black ink, reading "Kimberly K. Oltrogge". The signature is fluid and cursive, with the first name "Kimberly" and last name "Oltrogge" clearly distinguishable.

Kimberly K. Oltrogge
Assistant Attorney General
Opinion Committee